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EXAMINER

THOMPSON JR, FOREST

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 09/11/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/497,373

Applicant(s)

ALON ET AL.

Examiner

Forest O. Thompson Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 03 February 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-88 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-88 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☒ Interview Summary (PTO-413) Paper No(s) 6.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

### **DETAILED ACTION**

1. Claims 1-87 have been examined.

#### ***Information Disclosure Statement***

2. The information disclosure statement (IDS) filed on 05/22/2000 was considered in this Paper by the examiner. In a telephone interview with applicant's representative (Mr. Thomas Ewing), Mr. Ewing stated that only one IDS has been submitted. The file wrapper erroneously indicated more than one IDS as filed, but only one IDS was in the file wrapper. Therefore, the filewrapper was corrected to correspond with this information

#### ***Claim Objections***

3. Claim 81 objected to because of the following informalities: Claim 81 depends from the dependent system claim 80 and states "The method of claim 80" in line 1. Claim 80 is system claim that depends from independent system claim 74. Claim 81 should be changed to read "The system of claim 80." Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1-35, 40-41, and 44-86 are rejected under 35 U.S.C. 102(e) as being anticipated by Shkedy (U.S. Patent No. 6,260,024).

Claim 1: Shkedy discloses:

- receiving into the computer requests to purchase the product service by buyers of the group (col. 4 line 60 – col. 5 line 25);
- forming a collective request for the purchase of the product/service based upon the received buyer requests to purchase the product/service (col. 4 line 60 – col. 5 line 25);
- sending the collective request to the at least one seller (col. 5 lines 7-25; col. 6 lines 3-17);
- receiving a suggested price quotation for the product/service from the at least one seller (col. 6 lines 18-28);
- notifying an agent entity of the received suggested price quotation price (col. 5 lines 43-45);

- receiving purchase authorization from at least one buyer in the group to buy the product/service at the received suggested price quotation (col. 5 lines 43-60).

Claim 2: Shkedy discloses the agent entity is one of a buyer in the group or the group (col. 5 lines 43-45).

Claim 3: Shkedy discloses:

- collecting payment information from the at least one buyer in the group who is interested in buying the product/service at the received suggested price quotation (col. 5 lines 61-67); and
- sending the collected payment information to the at least one seller (col. 6 lines 30-52).

Claim 4: Shkedy discloses the payment information is in the form of a credit card number for the at least one buyer in the group who is interested in buying the product/service (col. 6 lines 30-52).

Claim 5: Shkedy discloses:

- receiving another suggested price quotation for the product/service from at least another seller (col. 7 lines 49-58); and
- notifying the agent entity of the received another suggested price quotation (col. 6 lines 18-28; col. 7 lines 49-58), through the functionality of posting sellers' bids.

Claim 6: Shkedy discloses allowing the at least another seller to review the received price quotation for the product/service from the at least one seller (col. 7 lines 49-58).

Claim 7: Shkedy discloses said computer is configured to restrict buyers in the group to buyers matching a requirements list (col. 25 lines 49-61).

Claim 8: Shkedy discloses the requirements list includes as a requirement that more than one buyer in the group have a common employer (col. 25 lines 49-61).

Claim 9: Shkedy discloses sending the collective request to the at least one seller further comprises a price reduction request for the product/service based on a number of buyers in the group (col. 10 lines 11-25).

Claim 10: Shkedy discloses the price reduction request further includes a preexisting group discount rate of the at least one seller (col. 10 lines 11-25).

Claim 11: Shkedy discloses the received suggested price quotation is based on a number of buyers in the group (col. 12 line 56 – col. 13 line 35).

Claim 12: Shkedy discloses receiving into the computer a group buy setup characteristics data set that includes at least one of price targets for the product/service, buyer deadlines for joining the group, buyer deadlines for submitting purchase authorization, and deadlines for closing the sales transaction (col. 5 lines 7-25).

Claim 13: Shkedy discloses providing a setup tool that facilitates receiving group buy setup characteristics data that includes at least one of price targets for the

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product/service, buyer deadlines for joining the group, and buyer deadlines for receiving purchase authorization (col. 5 lines 7-60).

Claim 14: Shkedy discloses the computer is connected to an electronic network and wherein the received requests to purchase the product/service are received over the electronic network (col. 4 line 60 – col. 5 line 6).

Claim 15: Shkedy discloses the electronic network is at least one of the World Wide Web, the Internet, or an intranet (col. 5 line 61 – col. 6 line 17).

Claim 16: Shkedy discloses the received requests to purchase the product/service are received in a secured format (col. 7 lines 5-12).

Claim 17: Shkedy discloses:

- the computer is connected to an electronic network (col. 1 lines 8-12); and
- the received suggested price quotation for the product/service is received over the electronic network (fig. 8 [810]; col. 16 line 62 – col. 17 line 22).

Claim 18: Shkedy discloses providing the agent entity with pre-negotiated prices for the product/service from the at least one seller (col. 10 lines 11-25).

Claim 19: Shkedy discloses notifying the agent entity of the received suggested price quotation comprises sending a message to the agent entity in a format of at least one of an e-mail message, an Internet immediate message, a voice message, a beeper message, or a facsimile message (col. 6 lines 41-47).

Claim 20: Shkedy discloses:

- receiving from the at least one seller at least one of an agreed price for the product/service or a price reduction for the product/service for at least one group size (col. 10 lines 11-25);
- receiving into the computer requests to purchase the product/service by buyers, the buyers collectively forming a group (col. 4 line 6 – col. 5 line 25);
- monitoring the group to determine if the group has attained the at least one group size (col. 12 line 56 – col. 13 line 6); and
- providing payment information to the at least one seller if the group attains the at least one group size (col. 12 line 56 – col. 13 line 6).

Claim 21: Shkedy discloses requesting the at least one seller to honor the at least one of an agreed price for the product/service or the price reduction for the product/service for the at least one group size (col. 12 line 56 – col. 13 line 6).

Claim 22: Shkedy discloses collecting payment information from buyers in the group who have submitted requests to purchase the product/service (col. 5 line 61 – col. 6 line 17).

Claim 23: Shkedy discloses the payment information is in the form of a credit card number for each buyer of the buyers in the group who are interested in buying the product/service (col. 5 line 61 – col. 6 line 17).

Claim 24: Claim 24 is written as a method and contains essentially the same limitations as claim 5; therefore, the same rejection is applied.



Claim 25: Claim 25 is written as a method and contains essentially the same limitations as claim 6; therefore, the same rejection is applied.

Claim 26: Claim 26 is written as a method and contains essentially the same limitations as claim 7; therefore, the same rejection is applied.

Claim 27: Claim 27 is written as a method and contains essentially the same limitations as claim 8; therefore, the same rejection is applied.

Claim 28: Claim 28 is written as a method and contains essentially the same limitations as claim 12; therefore, the same rejection is applied.

Claim 29: Claim 29 is written as a method and contains essentially the same limitations as claim 13; therefore, the same rejection is applied.

Claim 30: Claim 30 is written as a method and contains essentially the same limitations as claim 14; therefore, the same rejection is applied.

Claim 31: Claim 31 is written as a method and contains essentially the same limitations as claim 15; therefore, the same rejection is applied.

Claim 32: Claim 32 is written as a method and contains essentially the same limitations as claim 16; therefore, the same rejection is applied.

Claim 33: Shkedy discloses:

- the computer is connected to an electronic network (col. 4 line 60 – col. 5 line 6);  
and
- wherein the payment information is provided to the at least one seller over the electronic network (col. 6 lines 30-40).

Claim 34: Shkedy discloses notifying at least one buyer in the group that the group has attained the at least one group size (col. 3 lines 39-57).

Claim 35: Claim 35 is written as a method and contains essentially the same limitations as claim 19; therefore, the same rejection is applied.

Claim 40: Shkedy discloses:

- (a) a first portion that specifies a product/service for which purchase has been requested by the buyer (col. 4 line 60 – col. 5 line 25);
- (b) a second portion that identifies a group into which the buyer's purchase request has been joined with other purchase requests for the same product/service (col. 4 line 60 – col. 5 line 25);
- (c) a third portion that identifies a price quotation for the product/service received from a seller (col. 5 lines 7-25; col. 6 lines 3-17); and
- (d) a fourth portion that asks the buyer if the buyer will commit to purchasing the product/service at the identified price quotation from the seller (col. 5 lines 43-60).

Claim 41: Shkedy discloses (e) a fifth portion that solicits purchase information from the buyer if the buyer is willing to commit to the purchase of the product/service (col. 5 lines 42-67).

Claim 44: Shkedy discloses the first through fourth portions are configured for transmission to the buyer in an integral transmission (col. 16 lines 7-28).

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Claim 45: Claim 45 is written as a computer-readable medium and contains essentially the same limitations as claim 1; therefore, the same rejection is applied.

Claim 46: Claim 46 is written as a computer-readable medium and contains essentially the same limitations as claim 2; therefore, the same rejection is applied.

Claim 47: Claim 47 is written as a computer-readable medium and contains essentially the same limitations as claim 3; therefore, the same rejection is applied.

Claim 48: Claim 48 is written as a computer-readable medium and contains essentially the same limitations as claim 5; therefore, the same rejection is applied.

Claim 49: Claim 49 is written as a computer-readable medium and contains essentially the same limitations as claim 9; therefore, the same rejection is applied.

Claim 50: Claim 50 is written as a computer-readable medium and contains essentially the same limitations as claim 10; therefore, the same rejection is applied.

Claim 51: Claim 51 is written as a computer-readable medium and contains essentially the same limitations as claim 11; therefore, the same rejection is applied.

Claim 52: Claim 52 is written as a computer-readable medium and contains essentially the same limitations as claim 20; therefore, the same rejection is applied.

Claim 53: Claim 53 is written as a computer-readable medium and contains essentially the same limitations as claim 21; therefore, the same rejection is applied.

Claim 54: Claim 54 is written as a computer-readable medium and contains essentially the same limitations as claim 22; therefore, the same rejection is applied.

Claim 55: Claim 55 is written as a computer-readable medium and contains essentially the same limitations as claim 23; therefore, the same rejection is applied.

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Claim 56: Claim 56 is written as a system and contains essentially the same limitations as claim 1; therefore, the same rejection is applied.

Claim 57: Claim 57 is written as a system and contains essentially the same limitations as claim 2; therefore, the same rejection is applied.

Claim 58: Claim 58 is written as a system and contains essentially the same limitations as claim 3; therefore, the same rejection is applied.

Claim 59: Claim 59 is written as a system and contains essentially the same limitations as claim 4; therefore, the same rejection is applied.

Claim 60: Claim 60 is written as a system and contains essentially the same limitations as claim 5; therefore, the same rejection is applied.

Claim 61: Claim 61 is written as a system and contains essentially the same limitations as claim 6; therefore, the same rejection is applied.

Claim 62: Claim 62 is written as a system and contains essentially the same limitations as claim 7; therefore, the same rejection is applied.

Claim 63: Claim 63 is written as a system and contains essentially the same limitations as claim 8; therefore, the same rejection is applied.

Claim 64: Claim 64 is written as a system and contains essentially the same limitations as claim 9; therefore, the same rejection is applied.

Claim 65: Claim 65 is written as a system and contains essentially the same limitations as claim 10; therefore, the same rejection is applied.

Claim 66: Claim 66 is written as a system and contains essentially the same limitations as claim 11; therefore, the same rejection is applied.

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Claim 67: Claim 67 is written as a system and contains essentially the same limitations as claim 12 or 13; therefore, the same rejection is applied.

Claim 68: Claim 68 is written as a system and contains essentially the same limitations as claim 14; therefore, the same rejection is applied.

Claim 69: Claim 69 is written as a system and contains essentially the same limitations as claim 15; therefore, the same rejection is applied.

Claim 70: Claim 70 is written as a system and contains essentially the same limitations as claim 16; therefore, the same rejection is applied.

Claim 71: Claim 71 is written as a system and contains essentially the same limitations as claim 17; therefore, the same rejection is applied.

Claim 72: Claim 72 is written as a system and contains essentially the same limitations as claim 18; therefore, the same rejection is applied.

Claim 73: Claim 73 is written as a system and contains essentially the same limitations as claim 19; therefore, the same rejection is applied.

Claim 74: Claim 74 is written as a system and contains essentially the same limitations as claim 20; therefore, the same rejection is applied.

Claim 75: Claim 75 is written as a system and contains essentially the same limitations as claim 21; therefore, the same rejection is applied.

Claim 76: Claim 76 is written as a system and contains essentially the same limitations as claim 22; therefore, the same rejection is applied.

Claim 77: Claim 77 is written as a system and contains essentially the same limitations as claim 23; therefore, the same rejection is applied.

Claim 78: Claim 78 is written as a computer-readable medium and contains essentially the same limitations as claim 5; therefore, the same rejection is applied.

Claim 79: Claim 79 is written as a system and contains essentially the same limitations as claim 6; therefore, the same rejection is applied.

Claim 80: Claim 80 is written as a system and contains essentially the same limitations as claim 7; therefore, the same rejection is applied.

Claim 81: Claim 81 is written as a method and contains essentially the same limitations as claim 8; therefore, the same rejection is applied.

Claim 82: Claim 82 is written as a system and contains essentially the same limitations as claim 13; therefore, the same rejection is applied.

Claim 83: Shkedy discloses the purchase request receiver is connected to an electronic network and wherein the purchase request receiver is further configured to receive requests to purchase the product/service over the electronic network (col. 4 line 60 – col. 5 line 6).

Claim 84: Claim 84 is written as a system and contains essentially the same limitations as claim 15; therefore, the same rejection is applied.

Claim 85: Claim 85 is written as a system and contains essentially the same limitations as claim 16; therefore, the same rejection is applied.

Claim 86: Claim 86 is written as a system and contains essentially the same limitations as claim 33; therefore, the same rejection is applied.

Claim 88: Claim 88 is written as a system and contains essentially the same limitations as claim 73; therefore, the same rejection is applied.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 36-39, 42-43, and 87 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shkedy (U.S. Patent No. 6,260,024) and further in view of Pallakoff (U.S. Patent No. 6,269,343).

Claim 36. Shkedy discloses:

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- (a) a first portion that specifies a product/service for purchase by a group comprised of more than one buyer (col. 4 line 60 –col. 5 line 25);
- (b) a second portion that specifies a collective request by the group to the purchase of the product/service (col. 4 line 60 –col. 5 line 25);
- (c) a third portion that requests price information for the product/service from the seller (col. 5 lines 7-25; col. 6 lines 3-17).

Shkedy does not explicitly disclose a fourth portion that specifies a time interval for which the collective request remains active, nor a fifth portion that specifies at least a minimum sales quantity of the product/service for which a price information is requested. However, Pallakoff discloses:

- (d) a fourth portion that specifies a time interval for which the collective request remains active (Abstract; col. 1 lines 53-67); and
- (e) a fifth portion that specifies at least a minimum sales quantity of the product/service for which a price information is requested (col. 1 lines 53-67; col. 11 lines 25-37).

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to modify the invention of Shkedy to disclose a fourth portion that specifies a time interval for which the collective request remains active, and a fifth portion that specifies at least a minimum sales quantity of the product/service for which a price information is requested, as disclosed by Pallakoff, because this would provide buyers with the requirements that they must meet in order to participate in the group buy/purchase.



Claim 37: Shkedy discloses (f) a sixth portion that specifies price information provided by a competing seller of the product/service (col. 6 lines 18-28; col. 7 lines 49-58).

Claim 38: Shkedy does not specifically disclose (f) a sixth portion that specifies a number of buyers in the group. However, Pallakoff does disclose (f) a sixth portion that specifies a number of buyers in the group (col. 4 lines 2-4), through the functionality of *this field may also indicate how many individual buyers have thus far indicted a desire to buy the product*. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to modify the disclosure of Shkedy to disclose (f) a sixth portion that specifies a number of buyers in the group, as disclosed by Pallakoff, because this could influence potential buyers to commit to a purchase through an indication of the current price level.

Claim 39: Shkedy discloses the first through fifth portions are configured for transmission to the seller in an integral transmission (col. 16 lines 7-28).

Claim 42: Shkedy discloses (e) a fifth portion that informs the buyer of a time period within which the buyer must respond or be assumed to have made a purchase decision (col. 5 lines 48-55), through the functionality of *Step 56 is a determination step for the buyer 16 to decide whether he is willing to accept the maximum offer price provided by the central controller 200. If not, the FPO 100 creation process terminates at step 58. Otherwise, if the buyer accepts the maximum offer price his*

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*FPO 100 will be included in the pool purchase order at step 60 by transmitting his intention to accept to the central controller 200.*

Claim 43: Shkedy discloses the purchase decision is one of purchasing the product/service or declining to purchase the product/service (col. 7 lines 27-42).

Claim 87: Shkedy does not specifically disclose a group-buying notifier configured to notify at least one buyer in the group that the group has attained the at least one group size. However, Pallakoff discloses a group-buying notifier configured to notify at least one buyer in the group that the group has attained the at least one group size (col. 4 lines 21-24), in the functionality of *The process begins with a seller making an offer to sell a particular product at specified prices which depend upon the amount of the product that can be sold in a particular time period.* Therefore, it would have been obvious to one skilled in the art at the time the invention was made to modify the invention of Shkedy to disclose a group-buying notifier configured to notify at least one buyer in the group that the group has attained the at least one group size, as disclosed by Pallakoff, because this could influence buyer participation through the indication of lower prices based on levels of buyer participation and the current level that has been achieved.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Prior art includes:

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- Walker (U.S. Patent No. 6418415) discloses an aggregate conditional purchase offer (CPO) management system for receiving and processing CPOs from buyers for one or more goods or services;
- Fisher et al. (U.S. Patent No. 5,835,896) discloses a system and method for conducting a multi-person, interactive auction, in a variety of formats; and
- Ausubel (U.S. Patent No. 5,905,975) discloses A computer implemented system and method of executing an auction.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Forest O. Thompson Jr. whose telephone number is (703) 306-5449. The examiner can normally be reached on 6:30-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on (703) 308-1344. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

  
F. Thompson  
September 5, 2002

  
JEFFREY A. SMITH  
PRIMARY EXAMINER